

### **REMARKS**

Prior to the present amendment, claims 1, 19, 20, 22, 23-39 were pending. By the present amendment, claims 36-39 have been cancelled. The subject matter of claim 36 has been incorporated into claim 1. The subject matter of claim 39 no longer reads on claim 19 and thus has been cancelled. Applicants reserve the right to prosecute the subject matter of claims 37, 38, and 39 in an application that claims priority to the present application.

#### **Substance of Interview Statement**

Applicants would like to thank Examiner Koharski for the courtesies extended during the interview of January 13, 2009 during which the Nilsson reference (U.S. Patent No. 6,132,405) was discussed. The Examiner agreed that the present amendment would overcome the rejections in view of Nilsson.

#### **Rejection of Claims Under 35 U.S.C. 102 by Nilsson**

Claims 1, 19-20, 23-24, 26-35 and 39 stand rejected under 35 U.S.C. 102(b) for being allegedly anticipated by U.S. Patent No. 6,132,405 to Nilsson ("Nilsson"). Applicants have amended claims 1 and 19 to recite a shear thickening fluid with therapeutic properties which Nilsson does not disclose. Applicants submit that Nilsson does not anticipate claims 1 and 19 (and all claims that depend therefrom) and Applicants request withdrawal of this rejection.

#### **Rejection of Claims under 35 U.S.C. 103 by Nilsson in view of Zarate**

Claims 22 and 25 stand rejected under 35 U.S.C. 103(a) for being allegedly rendered obvious by Nilsson in view of U.S. Patent No. 5,662,619 to Zarate ("Zarate"). Applicants have amended claim 1 (from which claim 22 and 25 depend) to recite a shear thickening fluid with therapeutic properties which Nilsson does not disclose. Zarate does not make up for the deficiencies of Nilsson and there is no reason to modify the device of Nilsson with the features described in Zarate (there is no reason to modify the viscosity of blood). Applicants submit that Nilsson in view of Zarate does not render obvious claims 22 and 25 and Applicants request withdrawal of this rejection.

**Rejection of Claims Under 35 U.S.C. 103 by Nilsson in view of Freyman**

Claims 36-38 stand rejected as being allegedly rendered obvious by Nilsson in view of U.S. Patent Application Publication No. 2004/0030282 to Freyman ("Freyman"). These claims have been cancelled and thus Applicants submit that this rejection is rendered moot.

**U.S. Patent No. 5,125,913**

The Examiner mentioned this patent during the Examiner Interview of January 13, 2009. Applicants submit that this reference describes a method of making a catheter and the resultant catheter and there is absolutely no description of a shear thickening fluid in the catheter.

**CONCLUSION**

It is respectfully submitted that the present application is now in condition for allowance, which action is respectfully requested. The Examiner is invited to contact Applicants' representative to discuss any issue that would expedite allowance of the subject application.

Any fees for extension(s) of time or additional fees required in connection with the filing of this response, are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is authorized to charge any such required fees or to credit any overpayment to Kenyon & Kenyon's Deposit Account No. 11-0600.

Respectfully submitted,  
KENYON & KENYON LLP

Dated: February 5, 2009

By:           /Zeba Ali/          

(Reg. No. 51,392)

1500 K Street, N.W.  
Suite 700  
Washington, D.C. 20005  
Tel: (202) 220-4200  
Fax: (202) 220-4201